

**Testimony of Kia D. Floyd  
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**Before the Committee on Labor and Public Employees  
Hartford, CT  
February 20, 2007**

**S.B. 371 AAC Workplace Safety (Opposed)**

Good Afternoon Senator Prague, Representative Ryan and other members of the Committee. My name is Kia Floyd and I am an Assistant Counsel for Labor & Employment matters for the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut, ranging from large corporations to small businesses. The vast majority of our companies employ fifty (50) or fewer employees, many of whom make up Connecticut's workforce. I am here today to speak on behalf of all of our member companies. CBIA generally supports any labor and employment related legislation that does not increase the costs of doing business in the state or unreasonably increase administrative burdens on employers in dealing with employment and workplace issues. Unfortunately, **S.B. 371** is not one of these measures.

**S.B.371** states as its purpose to end workplace bullying by "[E]stablishing workplace safety requirements concerning employee behavior that is verbally or physically abusive, threatening, intimidating or humiliating to a reasonable person or that interferes with another employee's work performance." Although CBIA applauds the legislature in its efforts to curb bullying and threatening behavior in the workplace, we find this legislation to be problematic for several reasons:

First, *what makes someone a "Bully?"* Policing "bullying" behavior in the workplace would be extremely difficult for many employers to do. Although most employers enact policies and protocols for workplace safety, appropriate behavior and employee conduct, there is no clear way to determine which behaviors could be deemed "bullying" under this legislation. In its current form, this legislation could outlaw almost any behavior that is subjectively found to be offensive, humiliating or intimidating to an employee. For employees with heightened emotional sensitivities, even offensive jokes could fall within the purview of the statute, thereby infringing upon one employee's freedom of free speech in favor of another's sensitivities. Without clear guidelines, an employer would be required to establish policies on treating employees with dignity and respect, which is simply too subjective a determination for employers to make.

Additionally, *there are many legal options already available to employees* who intimidated, threatened or abused in the workplace. Employees can bring civil and criminal actions against both employers and co-workers for: harassment, negligent

infliction of emotional distress, intentional infliction of emotional distress, and violations of anti-discrimination laws.

Lastly, this proposal *will force employers to make employees be "nice" to one another, in order to avoid lawsuits*. If and when an employer discharges an alleged bully for not being "nice," it will be extremely difficult to defend against a suit for wrongful discharge because the definition of "bullying" under this legislation is so broadly defined and subject to many interpretations. The fact that an employee humiliated or intimidated a coworker is simply not recognized as a valid defense in a case for wrongful discharge absent additional evidence that the discharged employee engaged in some other unlawful behavior. Although the apparent intent of this legislation is to end behavior in the workplace that negatively affects the emotional health, safety and well-being of workers, this measure would prove impractical and ineffective in accomplishing that purpose. This bill places far too much responsibility on employers for employee behavior which cannot be controlled. A more effective measure would be to increase the penalties for harassing, threatening and intimidating behavior under the criminal statutes. In making "bullying in the workplace" a criminal offense, enforcement of this legislation would then fall upon governmental authorities rather than businesses, thereby making it easier for companies to discipline and/or discharge an employee based on their criminal conviction. For the foregoing reasons, CBIA cannot support this legislation.

Thank you for the opportunity to comment today.